

**REMARKS**

- 1. The substitute specification is enclosed in the Supplement.**
- 2&3. Said specification refers to the parent application.**
- 4. The receipt card shows that the Formal drawings were received on June 23 after being mailed on July 16, 2003.**
- 5. Apologies are extended for the technically deficient Information Disclosure Document. The journal article about the use of laser beams for communication systems of several kilometers was submitted to show that the invention has some practical potentials, and that is the way that it is discussed in applicant's specification.**
- 6. Counsel calls attention to Chadwell 5.663.533 cited in the parent case. As shown in the square 60 of Chadwell's Fig. 6, the distance-measurement is the feature emphasized in his hand-held monitoring device relying upon RADAR.**
- 7. Counsel has sought to clarify the claims to overcome the Examiner's criticisms concerning grammar.**
- 8-9 Each of the presently sought claims patentably distinguishes over the Kroll et al reference, which also, like Caldwell, teaches the use of RADAR. Kroll noted that the wavelength normally used in police RADAR is small enough to locate a golf ball. The present invention does involve an unobvious departure from such teachings. In the several years prior to 1999, various companies around the world were spending many millions of dollars on research concerning lasers, but overlooked the present invention.**
- 10. Counsel has studied all of the references and found none that jeopardizes the patentability of the presently sought claims. The Baker patent is the most relevant because it features a ball having a coating**

selectively responsive to light of a particular wavelength. However, the ultra-violet searchlight would only be used close to the ground and for short distances.

Castonguay describes a method which would have poor effectiveness if the wind were blowing in the wrong direction. The Castonguay patent illustrates that an application filed after applicant's was allowed with claims to both the apparatus and the method of seeking a lost item.

The Tinsman et al publication shows that lost golf ball searching is of enough current importance to prompt the Harshaw organization to spend money on foreign patents. Applicant's discussion of the prior art in the specification disposes of the teachings of the other references.

### ***Unity of Invention, Restriction, Unreasonable Extension***

At the interview, the Examiner indicated that a double-patenting rejection based upon McLaughlin 6,482,108 was contemplated. Counsel now alerts the Examiner to the fact that the concurrent issuance of a patent from this application and a Statutory Disclaimer of 6,482,108 disposes of the double patenting problem in such a manner that the Examiner can expedite the Notice of Allowability herein. Counsel makes the commitment to file such a Statutory Disclaimer of all of the claims of 6,482,108 shortly after the Monday midnight on the Tuesday when the patent issues. Because counsel is one of the joint adventurers for LIRSI, he is entitled to sign the Statutory Disclaimer. Enclosed is a sample of the contemplated Statutory Disclaimer, including counsel's undated signature. If on the day that the patent issues, the Examiner does not have a FAX from counsel confirming such filing of the Statutory Disclaimer, then but only then the Examiner would be authorized to transmit such Terminal Disclaimer to the Disclaimer Office. Because there is only a chance in a trillion that the Examiner might need to thus forward the sample to the Disclaimer Office, this amendment is submitted as a nonfee amendment.

MPEP 1490 clarifies the significant distinction between a statutory Disclaimer and a terminal disclaimer. Rarely does an Examiner have need to evaluate a Statutory Disclaimer, because they take effect upon the receipt upon the receipt of the documents and fees by the Disclaimer Office. However, there can be an abundance of modifications of Terminal Disclaimers [completely irrelevant to the present case] so that there are para-legals trained to assist Examiners in evaluating Terminal Disclaimers. Double Patenting arose because there were some scoundrel patent lawyers who tried to obtain more than a 17 year term by obtaining, for example, three different patents on an apparatus, a method, and an article, when in fact it was essentially a single invention having a unity of invention. Long before Congress dealt with this by having the 20 year term start with the pertinent filing date, the courts developed the judicial doctrine of double patenting. Because overburdened judges sometimes write opinions that are taken significantly from the briefs for the prevailing party, there is an abundance of bad law concerning double patenting. Stringham's book on double patenting cites a case in which both of two involved patents were invalidated for double patenting notwithstanding the fact that applicant had merely capitulated to an unreasonable restriction requirement by the Patent Office. That decision prompted attorneys to seek to embrace as many varieties of claims in one application as manageable, thus complicating restriction requirements. In the present case, most of the significant limitations are in all three classes of claims, so that there should be no problem in recognizing the unity of invention. This application benefits from the 1999 filing date. Hence the Examiner can properly allow in this application the three types of claims, that is, apparatus, process, and article.

The sample Statutory Disclaimer has a box indicating that the payment for the fee for such Terminal Disclaimer will come from Counsel's deposit account, but this sample about what will happen weeks from now does not transform a nonfee amendment into an amendment with fee.

Statutory Disclaimers are quite different from Terminal Disclaimers, which can be so complicated that the Patent Office has trained specialists to assist Examiners in evaluating various types of terminal disclaimers. Counsel is concerned with avoiding any hiatus in LIRSI's assertion of patent protection for apparatus, and therefore cannot file the Statutory Disclaimer until a few moments after the Monday midnight for the Tuesday of patent issuance. There would be no possibility for LIRSI to engage in any of the evils that the law of double patenting seeks to avoid.

Submitted herewith is the inventor's Supplemental Oath because article claims 8 and 9, although adequately disclosed, were not claimed in the parent application.

Prompt issuance of the Notice of Allowability for all 9 claims is earnestly solicited.

The signature page follows the various segments of the Supplement.